

James Alan Bush  
1745 De Marietta Avenue #3  
San Jose, CA 95126  
(408) 982-3272

Plaintiff in pro per

**FILED**

2008 MAY 16 P 3:29

RICHARD W. WIEKING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CA. S.J.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

C/8x

|                                 |   |                                |
|---------------------------------|---|--------------------------------|
| James Alan Bush,                | ) | Case No.: C 08-01354 (RS) JF   |
|                                 | ) |                                |
| Petitioner,                     | ) | EXHIBIT A                      |
|                                 | ) |                                |
| v.                              | ) | SUNNYVALE DEPARTMENT OF PUBLIC |
|                                 | ) | SAFETY INCIDENT REPORT 06-5149 |
| Crime Scene Investigator James  | ) |                                |
| Anton, Officer Benjamin Holt,   | ) |                                |
| Lieutenant Carl Rushmeyer,      | ) | Judge Jeremy Fogel             |
| Lieutenant Vierra, Officer Jon  | ) |                                |
| Marines, Officer Christoper     | ) |                                |
| Fontaine, Officer Michael (aka  | ) |                                |
| "Mick") Rose, Officer Devon     | ) |                                |
| Klein, and Sunnyvale Department | ) |                                |
| of Public Safety,               | ) |                                |
|                                 | ) |                                |
| - and -                         | ) |                                |
|                                 | ) |                                |
| Long (aka "Kevin") Cao, Daniel  | ) |                                |
| Napolitan, Daniel Cortez,       | ) |                                |
| Laurene Weber, Robert Bradford  | ) |                                |
| (aka "Malnburg, Jr."), Jonathan | ) |                                |
| Harrington, Josh Williams,      | ) |                                |
|                                 | ) |                                |
| Respondents.                    | ) |                                |
|                                 | ) |                                |

# Incident Report

## Sunnyvale Police Department



Address  
700 All America Way  
City, State Zip Code  
SUNNYVALE, CA 94086

Phone Number  
(408) 730-7100  
Fax Number  
(408) 730-7705

06-5149

Supplement No  
0001

Reported Date  
05/18/2006  
Nature of Call  
148 (A) (1)  
Officer  
ANTON, JAMES

### Administrative Information

|  |                                      |   |                                      |                                  |
|--|--------------------------------------|---|--------------------------------------|----------------------------------|
| Agency<br><b>Sunnyvale Police Department</b> | Report No<br><b>06-5149</b>          | Supplement No<br><b>0001</b>                                    | Reported Date<br><b>05/18/2006</b>   | Reported Time<br><b>02:08</b>    |
| Incident No<br><b>061380041</b>              | Status<br><b>C CLEARED BY ARREST</b> | Nature of Call<br><b>148(A) (1) PC OBSTRUCT/RESIST PUB OFCR</b> |                                      |                                  |
| Location<br><b>1220 TASMAN DR #379</b>       |                                      | City<br><b>SUNNYVALE</b>  | ZIP Code<br><b>94089</b>             |                                  |
| Rep Dist<br><b>22 / /</b>                    | Area<br><b>2</b>                     | Beat<br><b>2</b>  | Officer<br><b>12008/ANTON, JAMES</b> | Assignment<br><b>PA6</b>         |
| RMS Transfer<br><b>Successful</b>            |                                      | Approving Supervisor<br><b>13248/RUSHMEYER, CARL</b>            | Approval Date<br><b>05/19/2006</b>   | Approval Time<br><b>06:00:50</b> |

### OTHER 1: CAO, LONG THANG

|                             |                             |                           |                                |                      |                      |                            |
|-----------------------------|-----------------------------|---------------------------|--------------------------------|----------------------|----------------------|----------------------------|
| Involvement<br><b>OTHER</b> | Invl No<br><b>1</b>         | Type<br><b>Individual</b> | Name<br><b>CAO, LONG THANG</b> |                      | MINI<br>[REDACTED]   | Race<br>[REDACTED]         |
| Sex<br><b>MALE</b>          | Date of Birth<br>[REDACTED] | Age<br>[REDACTED]         | Juvenile?<br>[REDACTED]        | Height<br>[REDACTED] | Weight<br>[REDACTED] | Hair Color<br><b>BLACK</b> |
| Type<br><b>HOME</b>         |                             | Address<br>[REDACTED]     |                                | City<br>[REDACTED]   | State<br>[REDACTED]  |                            |
| ZIP Code<br><b>95126</b>    |                             |                           |                                |                      |                      |                            |
| Type<br>[REDACTED]          | ID No<br>[REDACTED]         | OLS<br><b>CALIFORNIA</b>  |                                |                      |                      |                            |
| Phone Type<br><b>CELL</b>   | Phone No<br>[REDACTED]      |                           |                                |                      |                      |                            |

### Narrative

#### INVESTIGATION:

On 05-18-06 at approximately 0350 hrs, PSO Holt and I responded to 1220 Tasman #379 in an attempt to conduct follow-up investigation on a case that had occurred earlier in the evening (refer to PSO Holt's narrative for details). We responded to the mobile home to establish if the subject of an earlier arrest was in fact associated with the residence as she had claimed.

I recognized 1220 Tasman #379 as the residence of James Bush. I had knowledge that James Bush has been arrested several times for being under the influence of a controlled substance after calling the Police to report intruders and other activity that had been the result of paranoia. I had personally responded to the residence on several previous occasions for controlled substance-related events. One of those events included a controlled substance manufacturing case where a handgun was also recovered (03-31-06, CR06-3298). On another event, I had contacted a Daniel Nabolitan ([REDACTED]) outside the residence. Prior to our contact at the residence, dispatch advised that Nabolitan had two outstanding misdemeanor warrants for his arrest.

After arriving at the mobile home, I noted that several of the interior lights were on inside. I found this odd given the time of night (0350 hrs) and noted that all the surrounding residences

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| Report Officer<br><b>12008/ANTON, JAMES</b> | Printed At<br><b>11/30/2006 13:16</b> | Page 1 of 3 |
|---|---------------------------------------|-------------|

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# Incident Report

## Sunnyvale Police Department

06-5149

Supplement No  
0001

### Narrative

were dark. After PSO Holt knocked and we received no response, PSO Holt and I began to walk away from the residence. As I began leaving the driveway area, a vehicle drove up and stopped directly in front of the home. I immediately recognized the passenger as James Bush, the owner of the home. Bush and I had discussed on prior occasions that he had a habit of inviting people he didn't know very well to live with him. This often put Bush in a position to call the Police when those associates overstayed their welcome, stole from him, or otherwise made him uncomfortable. Bush had always admitted to me that he needed to stop doing this. When I saw Bush, I casually asked him, "Hi Mr. Bush, what are you up to?" Bush immediately stated that he had just kicked "Danny" and "some crazy chick named Lorraine" out of his house that evening. After asking Bush if anyone was inside the residence, he stated that he did not know. He then stated that he wanted "Danny" out of his house (if he was in there). When I asked if Danny had been "using" (methamphetamine), Bush nodded yes. Bush then told me that a "Robert" was also in the home. When I asked if "Robert" was allowed to stay in the residence, Bush told me that "Robert has issues," but that he did not have to leave immediately. Bush then provided me with his house keys and requested that I check his house to ensure "Danny" was no longer there.

I then used Bush's house keys and opened the rear door, located on the west side of the mobile home. Upon entering and walking through a laundry room, I looked to the south to see a male standing in the threshold of a bedroom doorway (approximately 10 feet away). The male was later identified as Robert Bradford. Bradford seemed agitated and at first was turned away from me in the doorway. He yelled, "Who let you in?" I told him that "James" had let us in and that I needed him to walk toward me in the hallway. As I looked closer at Bradford, I noted that he was keeping his hands concealed behind the jam of the doorway. I requested that Bradford show his hands to me to ensure that he did not have a weapon. Rather than showing me his hands, Bradford refused and instead appeared to become more agitated. I then drew my service handgun and pointed it at Bradford. Based on his demeanor and non-compliance, I believed him to be holding a weapon. I ordered him at least five times to, "Show me your hands!" Each time, I ordered him in a louder voice and each time, Bradford refused and seemed to clench down more firmly on whatever he was holding. Because of Bradford's position at the end of the hallway, I was unable to advance upon him safely because of open doorways with potentially more unknown persons in the residence.

After a short time, I could see that Bradford had nothing in his left hand, but he still continued to conceal his right hand. At that time, Bradford's demeanor appeared to change from agitated and nervous to angry. He made a fist with his exposed left hand and made a few hesitant lunges toward PSO Holt and me. From his body language and general demeanor, I feared that Bradford was about to charge me and attack me with a weapon that was concealed behind the doorway. It also occurred to me that Bradford might be trying to commit suicide by agitating PSO Holt and I to the point where he would be forced to use deadly force. After yelling to Bradford that, "I'm going to shoot you," Bradford screamed, "I don't care what happens to me!" At that point, PSO Holt was able to request that Officers respond to assist with lights and siren. I feared for my life and nearly began firing my handgun at Bradford when I heard an item drop to the ground (on the carpet). Bradford then showed me his empty right hand (he was wearing black gloves). Bradford then complied with my order to drop to his knees, but refused to turn face the opposite direction (he was still in reach of whatever item he had dropped). Bradford continued to disregard my orders and stated, "Who sent you?" in a panicked and agitated voice. At certain points, he would tense his body, curl his lips, and look as if he were going to charge

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| Report Officer<br>12008/ANTON, JAMES | Printed At<br>11/30/2006 13:16 | Page 2 of 3 |
|--------------------------------------|--------------------------------|-------------|

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# Incident Report Sunnyvale Police Department

06-5149

Supplement No  
0001

## Narrative

and attack me. In addition to my handgun, I also drew and deployed my expandable baton. PSO Holt and I continued to give Bradford clear commands to lie on his stomach. After Bradford finally complied and began crawling back toward my location, PSO Holt was able to grab him and apply handcuffs (refer to PSO Holt's narratives for details regarding his actions). With the assistance of several other Officers who had arrived on scene, I conducted a protective sweep of the rest of the residence. The sweep confirmed that there were no other subjects inside the residence.

After the sweep was concluded, PSO Holt and I then looked behind the door jam to find a large kitchen knife directly underneath the area where Bradford had been concealing his hands. The knife was a stainless steel kitchen knife with a black handle. It had a sharpened blade length of 8-inches and an overall length of 12-inches. I picked up the knife and dropped it on the ground from a height of three or four feet. The "thud" that the knife made was consistent with the sound that I had heard just before Bradford finally complied and showed me his right hand.

## PHYSICAL EVIDENCE:

I collected the knife and captured digital images of it. I documented it on a property report, and booked it into property as evidence in this case.

Report Officer  
12008/ANTON, JAMES

Printed At  
11/30/2006 13:16

Page 3 of 3

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